

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WASHINGTON STATE REPUBLICAN  
PARTY; CHRISTOPHER VANCE;  
BERTABELLE HUBKA; STEVE  
NEIGHBORS; BRENT BOGER; MARCY  
COLLINS; and MICHAEL YOUNG,

Plaintiffs,

and

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE; and PAUL  
BERENDT,

Plaintiffs in Intervention,

v.

DEAN LOGAN, King County Records &  
Elections Division Manager; BOB  
TERWILLIGER, Snohomish County  
Auditor; VICKY DALTON, Spokane County  
Auditor; GREG KIMSEY, Clark County  
Auditor; CHRISTINA SWANSON, Cowlitz  
County Auditor; VERN SPATZ, Grays  
Harbor County Auditor; PAT GARDNER,  
Pacific County Auditor; DIANE L.  
TISCHER, Wahkiakum County Auditor; and  
DONNA M. ELDRIDGE, Jefferson County  
Auditor,

Defendants.

No.

WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE'S MOTION TO  
INTERVENE AS PLAINTIFF

**Noted for Consideration:  
June 3, 2005**

1 Pursuant to Fed.R.Civ.P. 24(a) and (b), the Washington State Democratic Central  
2 Committee (the “Party”) and its Chair, Paul Berendt, move to intervene in the above-entitled  
3 action.

4 This lawsuit seeks a declaration that Washington’s “top two” primary statute  
5 unconstitutionally impairs the First Amendment associational rights of political parties to  
6 decide for themselves who may represent them in partisan elections. As a practical matter,  
7 this suit will determine the scope of the Washington Democratic Central Committee’s  
8 associational rights to select its own candidates for public office. Therefore, the Party has a  
9 fundamental interest in the outcome of this case and is entitled to intervene as of right.  
10 Fed.R.Civ.P. 24(a) (Intervention of Right allowed when the movant “claims an interest  
11 relating to the ... subject of the action” and the “disposition of the action may as a practical  
12 matter impair or impede his ability to protect that interest[.]”); *see also Idaho Farm Bureau*  
13 *Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (Rule 24(a) construed broadly and in  
14 favor of applicants); *Greene v. United States*, 996 F.2d 973, 976 (9th Cir. 1993) (whether  
15 movant has an adequate interest in the action is a “practical, threshold inquiry.”). As the  
16 Advisory Committee Notes to Fed.R.Civ.P. 24(a) make clear: “If an absentee would be  
17 substantially affected in a practical sense by the determination made in an action, he should,  
18 as a general rule, be entitled to intervene.”

19 Alternatively, the Washington State Democratic Central Committee is similarly  
20 situated with plaintiff the Washington State Republican Party. The Party therefore has claims  
21 against the defendants that share common questions of law and fact. The Court should allow  
22 permissive intervention pursuant to Fed.R.Civ.P. 24(b) (Permissive Intervention allowed  
23 when the movant’s “claim or defense and the main action have a question of law or fact in  
24 common.”).

25 Counsel for the Plaintiff in Intervention has conferred with Plaintiff, the Washington  
26 State Republican Party, through its counsel. The Plaintiff has indicated that they will have no

1 opposition to the Motion to Intervene. We respectfully request that the Court allow the  
2 Washington State Democratic Central Committee and its Chair, Paul Berendt, to Intervene  
3 and represent their interests in this matter.

4 We have attached herewith a Complaint in Intervention as Exhibit A. We request that  
5 the Complaint in Intervention be accepted for filing and service on the other parties to this  
6 action. This Complaint substantially mirrors the Complaint already on file.

7 DATED this 19<sup>th</sup> day of May, 2005.

8 PRESTON GATES & ELLIS LLP

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10 By \_\_\_\_\_  
11 David T. McDonald, WSBA #5260  
12 Jay Carlson, WSBA # 30411  
13 Attorneys for Plaintiffs in Intervention,  
14 Washington State Democratic Party and  
15 Paul R. Berendt, Chair  
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